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Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Denmark

Addendum

Information received from Denmark on follow-up to the concluding observations*

[Date received: 9 October 2015]

* The present document is being issued without formal editing.

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1. **Response of the Danish Ministry of Health to the concluding observations on the initial report of Denmark from UN's Committee on the Rights of Persons with Disabilities adopted on the 12th session from the 15 September to 3 October 2014. [Danish response in *italic*].**

2. The Committee has as follow-up and dissemination requested that Denmark within 12 months provide information on the measures taken to implement the Committee's recommendation as set out in paragraph 21, which concerns the forced hospitalization and treatment of children in psychiatric hospitals (paragraph 68).

Paragraph 21 in the concluding observations:

3. *21. The Committee recommends that the State party abolish forced hospitalization and treatment of children in psychiatric hospitals, and provide adequate opportunities for information and counselling to ensure that all children with disabilities have the support they need to express their views.*

4. *As a general rule the activities concerning psychiatric treatment are regulated by the general health legislation. These rules cover the treatment of physical as well as mental illnesses, and state the principle of free and equal access to necessary medical care, not depending on economic, social or racial status. The only legislation that concerns psychiatric treatment is the so-called Psychiatric Act.*

5. *In order to use detention or compulsory treatment the patient must be insane or in a condition similar to insanity. The criterion "similar to insanity" is construed restrictively, and so it must be a condition that cannot be distinguished from insanity.*

6. *The following two conditions must be met prior to any compulsory admission of a patient to a psychiatric ward:*

(a) *The patient must be insane (mentally ill) or in a similar condition.*

(b) *It must be deemed unjustifiable not to admit the patient for treatment. This is the case:*

- *When the prospect of recovery or a significant and decisive improvement of the patient's condition would otherwise be seriously reduced, or*
- *When the patient exposes him or herself or others to significant harm.*

7. *In Denmark as a general rule no admission, examination, treatment or care can be initiated or continued without informed consent of the patient unless otherwise provided for by statute or statutory provisions. Therefore every time a person is subjected to coercive measures a separate protocol has to be filled out as required by the Danish Psychiatric Act. Besides, this information is also reported to the National Board of Health. The Danish data for the use of coercion are of high quality, publicly available and highly validated.*

8. *However the Health Act in Denmark stipulates, that when a patient has lost the capacity to handle his/her own interests, the person or persons authorized under the law shall enter into legal rights of the patient if this proves necessary to safeguard the interest of the patient in the relevant situation.*

9. *A patient who cannot give informed consent him/herself shall be informed and involved in the discussions of treatment available in so far as the patient understands the treatment situation, unless such information may adversely affect the patient. The patient's comments, if considered worthwhile and relevant, shall be taken seriously.*

The Ministry of Health would like to point out as mentioned above, that whenever a patient is exposed to coercive measures it must be noted in a special protocol at the psychiatric ward, and this information is also reported to the local authorities as well as the central governmental institutions.

10. *In the Regional State Administration a local Patient Board of Complaints is set up. Complaints about the board's decisions concerning the deprivation of liberty (involuntary placement and forcible detention), restraint, involuntary treatment in out-patient care,*

protective restraint, and locking of doors in the ward, can be lodged to the regular court system. The Court appoints a lawyer for the patient, and the costs are paid by the State. Furthermore the patient must be offered a patient advisor to safeguard these rights.

11. *Other safeguards in connection with coercive measures are the assignment of a patient advisor, the advisor must be assigned as soon as the decision has been taken and has to visit the patient within 24 hours of being assigned. Whenever coercive measures are used, the patient must be advised on complaints procedures.*

12. *Furthermore patients have the right to be informed why coercion is required and what effect treatment may be expected to have on their health condition, including what the outcome may be if the treatment is not undertaken.*

13. *On any compulsory action the consultant physician must take measures to secure that deprivation of liberty and use of other coercive measures is used only to a necessary extent.*

14. *In the spring of 2015 the Danish Parliament adopted changes to the Danish Psychiatric Act — among others — to clarify the legal position of minor psychiatric patients. The 15-17 year-olds who do not consent to admission or treatment are now covered by the Danish Psychiatric Act and the ensured procedural safeguards listed above.*

15. *The Danish Psychiatric Act does not apply to minors under the age of 15, if the parent who has custody has given informed consent to the admission or treatment of the mentally ill young child.*

16. *The act also contains an obligation to report interventions performed on children under the age of 15 to the National Board of Health, regardless of whether the intervention is done with parental consent or not.*

17. *The parent who has custody must be informed that he or she has the opportunity to renounce the position for use of coercion against the minor. If the parent does not wish to rule, the minors will be covered by the Danish Psychiatric Act if the other conditions for use of individual coercive measures are met. This involves appointing patient advisor and appeal, etc.*

18. *It is important to stress that the principle of the least invasive measures must always be followed. It is also the aim to minimize the use of immobilization with a belt on children.*

19. *The Ministry of Health has no immediate plans to alter this arrangement. The new appeal for the 15-17 year-olds will however be evaluated in 2018 and adjustment of the system will be considered e.g. in relation to the age group that has appeal.*

20. *Finally the Government has declared the goal to improve conditions for people with mental illness, including a reduction in the use of coercion. In summer 2014 a majority of political parties in Parliament agreed to reserve 2.2 billion Danish kroner in order to ensure better rights and better quality of care for mentally ill persons e.g. by an increase of capacity in psychiatry, e.g. in outpatient psychiatry and closed wards. The keyword is "equal effort". Psychiatric patients must receive the same effort, have the same rights and get the same high quality in treatment and rehabilitation as patients with physical illness. Specific targets are set e.g. for reducing coercion in psychiatry, including mechanical restraint. These initiatives support the new framework and direction for psychiatry that has been recommended by the Commission.*